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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,593	04/21/2004	Gary C. Brooks	47907.2.1	5553
22859	7590	06/06/2005	EXAMINER	
INTELLECTUAL PROPERTY GROUP			WRIGHT, ANDREW D	
FREDRIKSON & BYRON, P.A.			ART UNIT	PAPER NUMBER
200 SOUTH SIXTH STREET			3617	
SUITE 4000			DATE MAILED: 06/06/2005	
MINNEAPOLIS, MN 55402				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/828,593	BROOKS ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Andrew Wright	3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 14 March 2005.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-47 is/are pending in the application.  
4a) Of the above claim(s) 14-19, 37-44 and 47 is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1, 2, 20-22, 24, 25, 27, 35, 36, 45 and 46 is/are rejected.

7)  Claim(s) 3-13, 23, 26 and 28-34 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/20/04.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_ .

## DETAILED ACTION

### ***Election/Restrictions***

1. Applicant's election of Species A in the reply filed on 3/14/05 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 14-19, 37-44, and 47 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 3/14/05.

### ***Information Disclosure Statement***

3. The information disclosure statement (IDS) submitted on 7/20/04 was filed in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Harris (US 5,441,066). Harris shows a watercraft cover. The cover comprises a sheet (14) that has at least some inherent degree of water repellency. Two pockets (34) are attached to

the sheet (fig 4). Support structure comprises tube (12b) and plurality of arms (16). Each end of a single arm constitutes an end of the support structure. Thus a first end and a second end of the support structure are received in the pockets. Either tube (12a) or slide (44) can be considered a support structure sleeve that is located substantially between the pockets and receives the support structure (12b). Strap (26) is a strap that is attachable to the sheet and is capable of performing the recited functionality. The support structure (12b, 16) is integrated with the sheet and is collapsible with the sheet.

6. Claim 2, the cover is show with at least four straps (26). One of the four constitutes the strap recited in claim 1. A second of the four constitutes the dual retention system. The nylon strap (26) is the first relatively elastic cord. The metal D-ring (62) is the second relatively inelastic cord.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 20, 22, 24, 25, 35, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harris (US 5,441,066) in view of Noel (US 3,960,162). Regarding claim 20, Harris shows a watercraft cover generally in the shape of an umbrella. As described above with respect to claim 1, Harris shows a sheet, pockets, support structure, and dual retention system. Harris does not show a vent. Noel shows an

umbrella with vents for venting wind for preventing breakage under conditions of stress. It is known to operate boats in high wind areas, and to operate boats at high velocities thus creating high wind. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Harris by adding vents as taught by Noel. The motivation would be to minimize the possibility of breakage of the boat cover.

9. Claim 22, Harris shows a support structure sleeve.
10. Claim 24, one of the plurality of straps (26) constitutes a holding strap.
11. Claim 25, one of the plurality of straps (26) constitutes a rear retention strap.
12. Claim 35, the nylon sleeve (34) that makes the pocket also has a loop at its lower end for holding D-ring (30). The loop of the sleeve (34) is a strap sleeve at the outside perimeter of the sheet. The loop could perform the recited functionality.
13. Claim 36, D-rings (36) are a plurality of strap loops that are capable of performing the recited functionality.
  
14. Claims 20, 21, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jannausch (US 5,228,408) in view of Litsheim (US 2,811,728). Regarding claim 20, Jannausch shows a boat cover with a sheet of water repellent material. The sheet has pockets (65). Support member (64) has first and second ends that are received in the pockets. Strap (90) is attached to the sheet. Zippers (22 and 24) provide a vent. Straps (20, 21) are a dual retention system. The straps are of the same material so they are not respectively elastic and inelastic. Litsheim shows a boat

cover and means for attaching the boat cover to the boat. Like Jannausch, Litsheim uses straps that fit around the hull of the boat to hold the cover on. Litsheim shows that the straps can be made of two sections: a rope member (6) and a rubber member (5). The rope member is relatively inelastic. The rubber member is relatively elastic. Litsheim teaches that this configuration is preferable to repeated slackening and tightening of normal straps. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Jannausch by using the straps of Litsheim. The motivation would be to avoid repeated adjustment of the straps.

15. Claim 21, the pockets allow the location of the support member to be adjusted.

Therefore, the pockets are adjustable.

16. Claim 27, the strap (90) comprises two pieces (93, 94) that are reversibly connected to each other.

17. Claims 45 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harris (US 5,441,066). Harris, as described above with respect to claims 1 and 2, shows the structure incident to claims 45 and 46, including the sheet, pockets, support structure with first and second ends, sleeve, strap, and dual retention system. Harris does not explicitly disclose the recited method steps. The method steps, however, are inherent in the making and use of the Harris apparatus. The cover is necessarily secured to the watercraft during use. The ends are necessarily inserted into the pockets during the making of the apparatus. The support structure is necessarily bent

during the making and use of the apparatus. The dual retention system is necessarily tightened using adjustment (28) during use of the apparatus. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made To devise the recited method steps. The motivation would be to make and use the Harris apparatus.

***Allowable Subject Matter***

18. Claims 3-13, 23, 26, and 28-34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

19. Any inquiry concerning this communication should be directed to examiner Andrew D. Wright at telephone number 571-272-6690. The examiner can normally be reached Monday-Friday from 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano, can be reached at 571-272-6684. The fax number for official communications is 703-872-9306. The fax number directly to the examiner for unofficial communications is 571-273-6690.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.  
For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andrew D. Wright  
Patent Examiner  
Art Unit 3617

ANDREW D. WRIGHT  
PATENT EXAMINER  
for 5/21/05